



New Jersey Department of Children and Families Policy Manual

Manual:	OOE	Office of Education	Effective Date:
Volume:	I	Office of Education	
Chapter:	A	Office of Education	6-30-1990
Subchapter:	1	Office of Education	
Issuance:	22	Protection of Student's Rights Evaluation and Reevaluation Procedures	Revised:
			5-4-2009

SUBJECT: Protection of Students' Rights in Regard to Evaluation and Reevaluation Procedures

EFFECTIVE DATE: June 30, 1990

REVISED: May 4, 2009

A. OBJECTIVE

To ensure the protection of rights, in regard to evaluation/ reevaluation procedures, of State Facility Education Act (SFEA) and State responsible students for whom the Department of Children and Families (DCF) provides Child Study Team (CST) services.

B. DEFINITION

"Parent" means the natural or adoptive parent, the legal guardian, an educational surrogate parent who has been appointed according to N.J.A.C. 6A:14-2.2, and an adult student.

C. STANDARDS

1. The Education Supervisor (ES), the CST Regional Manager and the CST case manager shall be responsible to ensure the protection of students' rights in regard to evaluation and reevaluation procedures in adherence with N.J.A.C. 6A:14-2.5.
2. All evaluation procedures, including, but not limited to, tests and other evaluation materials, instruments, and strategies used to determine eligibility

and placement of students with disabilities, shall be selected and administered in accordance with N.J.A.C. 6A:14-2.5, 3.4 and 3.8.

3. Parents have the right to request an independent evaluation pursuant to N.J.A.C. 6A:14-2.5(c).

D. PROCEDURES

1. Written parental consent shall be obtained in accordance with OOE Policy #26, Procedural Safeguards, and the *Supervisor of Educational Programs/Child Study Team Letters and Forms Manual* (SEP/CST Manual) prior to:
 - a. Conducting any assessment as part of an initial evaluation; and
 - b. Conducting any assessment as part of a reevaluation, except that such consent is not required for a reevaluation if it can be demonstrated that reasonable measures were taken to obtain such consent and the parent or adult student failed to respond.
2. When conducting an evaluation, the ES, the CST Regional Manager, the CST case manager and the individuals performing the assessments shall ensure that the following protection procedures are observed:
 - a. Use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information:
 - 1) provided by the parent that may assist in determining whether a child is a student with a disability and in determining the content of the student's Individualized Education Program (IEP); and
 - 2) related to enabling the student to be involved in and progress in the general education curriculum or for preschool children with disabilities to participate in appropriate activities;
 - b. Not use any single procedure as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for the student; and
 - c. Use technically sound instruments that may assess the relative contribution of cognitive, behavioral, physical, and/or developmental factors.
3. The individuals conducting the assessment, the CST case manager and the CST Regional Manager shall ensure that:
 - a. Evaluation procedures including, but not limited to, tests and other evaluation materials according to N.J.A.C. 6A:14-3.4:
 - 1) are selected and administered so as not to be racially or culturally discriminatory;
 - 2) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do

academically, developmentally, and functionally unless it is clearly not feasible to do so; and

- 3) materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measure the student's English language skills;
 - b. Any standardized tests that are administered:
 - 1) have been validated for the purpose(s) for which they are administered; and
 - 2) are administered by certified personnel trained in conformance with the instructions provided by their producer;
 - c. The student is assessed in all areas of suspected disability;
 - d. Assessment tools and strategies that provide relevant information to directly assist persons in determining the educational needs of the student are provided;
 - e. Tests are selected, administered and interpreted so that when a student has sensory, manual or communication impairments, the results accurately reflect the ability which that procedure purports to measure, rather than the impairment unless that is the intended purpose of the testing;
 - f. An initial evaluation shall consist of a multi-disciplinary assessment in all areas of suspected disability;
 - 1) Such evaluation shall include at least two assessments and shall be conducted by at least two members of the child study team, and, when appropriate, other specialists who shall conduct the evaluation in accordance with the procedures in N.J.A.C. 6A:14-3.4.
 - 2) A minimum of one evaluator shall be knowledgeable in the area of the suspected disability.
 - g. The evaluation shall be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the suspected eligibility category; and
 - h. The IEP team, responsible for conducting a reevaluation, determines the nature and scope of the reevaluation as well as which child study team members and/or specialists shall conduct the reevaluation, if warranted, in accordance with the procedures in N.J.A.C. 6A:14-3.8.
4. A student with a disability, who is advancing from grade to grade with the support of specially designed services, may continue to be eligible when:
 - a. As part of a reevaluation, the IEP team determines that the student continues to require specially designed services to progress in the general education curriculum; and

- b. The use of functional assessment information supports the IEP team's determination.
5. A parent may request an **independent evaluation** if there is disagreement with any assessment conducted as part of an initial evaluation or a reevaluation provided by the DCF Office of Education (OOE).
- a. If the parent seeks an independent evaluation in an area not assessed as part of an initial evaluation or reevaluation, the DCF OOE shall first have the right to conduct the requested evaluation.
 - 1) The DCF OOE, through the CST case manager or CST Regional Manager, shall determine within ten days of the receipt of the request for an independent evaluation whether or not to conduct the evaluation and notify the parent of its determination.
 - 2) If the DCF OOE determines to conduct the evaluation, it shall notify the parent in writing and complete the evaluation within 45 calendar days of the date of the parent's request.
 - 3) If the DCF OOE determines not to conduct the evaluation itself, the CST case manager shall proceed in accordance with b) below.
 - 4) After receipt of the DCF OOE's evaluation or the expiration of the 45 calendar day period in which to complete the evaluation, the parent may then request an independent evaluation if the parent disagrees with the evaluation conducted by the DCF OOE.
 - b. Such independent evaluation(s) shall be provided at no cost to the parent unless the DCF OOE initiates a due process hearing to show that its evaluation is appropriate and a final determination to that effect is made following the hearing.
 - 1) Upon receipt of the parental request, the ES/CST case manager shall provide the parent with information about where an independent evaluation may be obtained and the criteria for independent evaluations according to c. and d. below. With the exception of 3 a. above, the DCF OOE shall take steps to ensure that the independent evaluation is provided without undue delay; or
 - 2) Not later than 20 calendar days after receipt of the parental request for the independent evaluation, the DCF OOE shall request the due process hearing.
 - c. Any independent evaluation purchased at public expense (meaning, by the OOE), shall:
 - 1) be conducted according to N.J.A.C. 6A:14-3.4.; and
 - 2) be obtained from another public school district, educational services commission, jointure commission, a clinic or agency approved under

NJAC 6A:14-5, or private practitioner, who is appropriately certified and/or licensed, where a license is required.

- d. An independent medical evaluation may be obtained according to N.J.A.C. 6A:14-5.1(e).
 - e. Any independent evaluation submitted to the CST, including an independent evaluation obtained by the parent at private expense, shall be considered in making decisions regarding special education and related services.
 - f. If a parent requests an independent evaluation, the ES/CST case manager may ask the parent to explain why he or she objects to the DCF OOE's evaluation; however, the ES/CST case manager shall not require such an explanation, and the DCF OOE shall not delay either providing the independent evaluation or initiating a due process hearing to defend the DCF OOE's evaluation.
 - g. For any independent evaluation, whether purchased at public or private expense, the DCF OOE and/or the school that the student attends shall permit the evaluator to observe the student in the classroom or other educational setting, as applicable.
 - h. If an administrative law judge orders that an independent evaluation be conducted, the independent evaluation shall be obtained and paid for by the DCF OOE in accordance with the decision or order of the administrative law judge.
6. When conducting evaluations or reevaluations, the ES and CST case manager shall adhere to the specific procedures and utilize the letters and forms provided in the SEP/CST Manual to ensure that students are evaluated and reevaluated in accordance with N.J.A.C. 6A:14-2.5, 3.4 and 3.8.
7. When the DCF OOE CST Case Manager or ES utilizes electronic mail, parents shall be informed as to whether they may use electronic mail to submit requests to the CST regarding any part of the evaluation or reevaluation process/procedures. If utilized, parents shall be informed of the procedures to access the electronic mail system.

Debra Stewart
Director

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